

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CIVIL ACTION NO.: C-1-03-548

| | | |
|-----------------------------------|---|-------------------------------------|
| LEROY E. EUVRARD, JR. | : | HON. SANDRA S. BECKWITH |
| | : | |
| Plaintiff | : | |
| | : | |
| CITIBANK, THE TRAVELERS BANK, CSC | : | |
| CREDIT SERVICES, EQUIFAX, | : | |
| TRANSUNION AND EXPERIAN | : | |
| | : | ANSWER OF DEFENDANT, CITIBANK |
| | : | (SOUTH DAKOTA), N.A. (INCORRECTLY |
| | : | NAMED IN THE COMPLAINT AS CITIBANK, |
| | : | THE TRAVELERS BANK), SUCCESSOR TO |
| Defendants | : | TRAVELERS BANK BY MERGER |

Comes now the Defendant Citibank (South Dakota), N.A. (incorrectly named in the Complaint as Citibank, The Travelers Bank), successor to Travelers Bank by merger, by and through Counsel and for its Answer to the Complaint filed herein states as follows:

ANSWER

1. Defendant admits the allegations contained in paragraph 1 of the Complaint relating to Plaintiff LeRoy E. Euvrard, Jr.; however, Defendant asserts that the address for Citibank (South Dakota), N.A. (incorrectly named in the Complaint as Citibank, The Travelers Bank), successor to Travelers Bank by merger, is Citibank (South Dakota), N.A., 701 E. 60th Street, N., Sioux Falls, South Dakota 57104-0432. Further Defendant denies the allegations contained in paragraph 1 of the Complaint for lack of knowledge with regard to Defendants, Equifax and Experian, in subsections (d) and (e).
2. Defendant admits the allegations contained in paragraph 2 of the Complaint.
3. Defendant denies the allegations contained in paragraph 3 of the Complaint.

4. Defendant admits the allegations contained in paragraph 4 of the Complaint as to notice to Citibank (South Dakota), N.A. (incorrectly named in the Complaint as Citibank, The Travelers Bank), successor to Travelers Bank by merger, (South Dakota), N.A.; however, Defendant denies the remaining allegations contained in paragraph 4 of the Complaint for lack of knowledge.
5. Defendant admits the allegations contained in paragraph 5 of the Complaint as to notice to Citibank (South Dakota), N.A. (incorrectly named in the Complaint as Citibank, The Travelers Bank), successor to Travelers Bank, by merger; however, Defendant denies the remaining allegations contained in paragraph 5 of the Complaint for lack of knowledge.
6. Defendant denies the allegations contained in paragraph 6 of the Complaint for lack of knowledge.
7. Defendant denies the allegations contained in paragraph 7 of the Complaint for lack of knowledge.
8. Defendant denies the allegations contained in paragraph 8 of the Complaint for lack of knowledge.
9. Defendant denies the allegations contained in paragraph 9 of the Complaint for lack of knowledge.
10. Defendant denies the allegations contained in paragraph 10 of the Complaint for lack of knowledge.
11. Defendant denies the allegations contained in paragraph 11 of the Complaint for lack of knowledge.

12. Defendant denies the allegations contained in paragraph 12 of the Complaint for lack of knowledge.
13. Defendant denies the allegations contained in paragraph 13 of the Complaint.
14. Defendant denies the allegations contained in paragraph 14 of the Complaint.

FIRST DEFENSE

This answering Defendant states that the Complaint fails to state a claim against them upon which relief can be granted and should be dismissed.

SECOND DEFENSE

That all or part of the claims of Plaintiffs set forth in the Complaint are barred by virtue of the expiration of the applicable Statute(s) of Limitations pertaining thereto.

THIRD DEFENSE

That any alleged losses or damages sustained by Plaintiff, if any, are the direct and proximate result of the sole and/or contributory negligence of said Plaintiff.

FOURTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.

FIFTH DEFENSE

Defendant affirmatively states and alleges that Plaintiff has failed to mitigate his alleged damages.

SIXTH DEFENSE

The claims in Plaintiff's Complaint are barred or reduced because of superseding/intervening causes.

SEVENTH DEFENSE

Defendant affirmatively states and alleges that Plaintiff's claims may be barred by additional defenses that may arise during the course of this litigation, and Defendant hereby expressly reserves its right to assert same and otherwise amend this pleading.

EIGHTH DEFENSE

Defendant fully complied with its requirements under the Fair Credit Billing Act and Plaintiff did not fulfill his requirements to comply with said Act.

WHEREFORE, Defendant pray as follows:

1. That the Complaint be dismissed with prejudice at the cost of the Plaintiff;
2. For its costs herein expended, including reasonable attorney fees;
3. For trial by jury; and
4. For any and all other such relief to which Defendant may be justly entitled.

Respectfully submitted,

s/Wm. T. Robinson III

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Counsel for Defendant Citibank (South Dakota),
N.A. (incorrectly named in the Complaint as
Citibank, The Travelers Bank), successor to
Travelers Bank, by merger (South Dakota),
N.A., and Travelers Bank

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Leave to File Responsive Pleading Out of Time was served on Counsel of record as set forth below this 20th day of November, 2003:

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s/Wm. T. Robinson III
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